IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

ORDER

S.B.CIVIL WRIT PETITION NO.2298/1997.

Badri Lal.

VERSUS

District & Sessions Judge, Sawai Madhopur & Another.

16.11.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.R.P.Singh, for the petitioner.
Mr.P.S.Sharma, for the respondents.

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The writ petition has been filed challenging the order of the District and Sessions Judge dated 25.02.1997 (Annexure-5) upholding the judgment and decree dated 27.11.1995 (Annexure-4) passed by the learned Civil Judge (Senior Division), Sawai Madhopur for an amount of Rs.5,115/-.

The respondent filed a suit for a sum of Rs.2,021/- with interest @ 12% per annum which was also decreed amounting to Rs.3,094/-, thus, in all a sum of Rs.5,115/-. Several issues were framed including the execution of pro-note. The petitioner denied the execution of the pro-note and before the court the petitioner even denied his signatures Exhibit-4 and Exhibit-5 Vakalatnama filed before the court.

After appreciation of the evidence both the courts came to the conclusion that pro-note had in fact been executed and that the amount had been received by the petitioner.

The learned District Judge, however, reduced the rate of interest from 12% per annum to 9% per annum. In the facts and circumstances, the findings of fact recorded by the courts below are based upon the appreciation of the evidence which cannot be interfered under the writ jurisdiction under Article 226 of the Constitution of India.

The learned counsel for the respondent, however, agrees that the rate of interest be reduced to 6% per annum in case the amount is paid within a period of one year.

Consequently, the writ petition is disposed of modifying the judgment and decree passed by the learned courts below that the petitioner would be entitled to get the principal amount with interest @ 6% per annum till realization if the amount is paid within one year from today failing which the respondent shall be free to execute the decree.

The writ petition as well as the stay application stand disposed of, as above.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.